IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

WP(C).No. 29465 of 2005(G)

PETITIONER:

K.M.HANEEFA, AGED 50 YEARS,
S/O.MEERA SAHIB, KOONIPPARAMBIL HOUSE,
BHOOTHAKKUZHI, KANJIRAPPALLY, KOTTAYAM DISTRICT.

BY ADV. SRI.JOY GEORGE

RESPONDENTS:

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1. STATE OF KERALA, REP. BY THE SECRETARY,
HOME DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE DEPUTY SUPERINTENDENT OF POLICE,
CRIME DETACHMENT WING, OFFICE OF THE
SUPERINTENDENT OF POLICE, IDUKKI.

3. THE JUDICIAL FIRST CLASS MAGISTRATE,
PERUMEDU REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY ADV. SRI. SHYSON P. MANGUZHA, PUBLIC PROSECUTOR.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 : TRUE COPY OF THE FIR IN CRIM NO.308 OF 2002 DATED 24.10.02.

EXT.P2 : TRUE COPY OF THE INVESTIGATION REPORT SUBMITTED BY THE 2ND RESPONDENT DATED 26.12.04.

EXT.P3 : TRUE COPY OF THE REPORT FILED BY THE SECOND RESPONDENT STATING THAT EXHIBIT P1 IS A MISTAKE OF FACT.

EXT.P4 : TRUE COPY OF THE NOTICE ISSUED BY THE 3RD RESPONDENT TO THE DEFACTOR COMPLAINT ABOUT EXHIBIT P2 REFER REPORT.

PIUS C. KURIAKOSE, J.

W.P.(C) No. 29465 OF 2005

Dated this the 19th day of July, 2007

JUDGMENT

The 1st respondent appears through the Public Prosecutor, already before me. Hence the Writ Petition is not defective.

Having heard the submissions of Mr.Joy George, counsel for the petitioner and having gone through the exhibits placed on record particularly, Exts.P1 and P2 and also Exts.P3 and P4 and the undisputed position that no protest complaint has been filed by anybody on the basis of Exts.P3 and P4 notices and the submissions made before me by the Public Prosecutor on the basis of the instructions received from the 2nd respondent, I do not find any justification for allowing the continuance of the case as against the petitioner. The proceedings against the petitioner on the basis of Ext.P1 now pending on the files of the Judicial First Class Magistrate's Court, Peerumedu in CC No.840 of 2004 corresponding to Crime No.308 of 2002 of the Peerumedu Police Station are liable to be quashed and I quash them to the extent they pertain to the petitioner. The learned Magistrate will pass appropriate consequential orders on the basis of this judgment in the case so that the petitioner who is the third accused, will be absolved.

PIUS C. KURIAKOSE, JUDGE

btt